



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

P.O. Box 44000 • Olympia, Washington 98504-4000

July 31, 2025

Via E-mail and U.S. Mail

Heather Klein Leibowitz, AAG
Department of Labor and Industries
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Ryan Doss
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I & J Graf Enterprises, LLC
dba Little Italy
140 N James Ave
Wenatchee, WA 98801

I & J Graf Enterprises, LLC
dba Little Italy
Attn: Jeffrey Graf
1913 SE 11th Ave
Cape Floral, FL 33990
jeffreygraf54@yahoo.com

RE: Ryan Doss
OAH Docket No. 10-2023-LI-01964
Director No. 2025-017-WPA

Dear Parties:

Please find the enclosed Director's Order, which is served on the date of mailing. A copy of the Initial Order is enclosed for your convenience.

Sincerely,

A handwritten signature in black ink that reads "Joel Sacks".

Joel Sacks
Director

Enclosures

cc: Judge Dan Gerard
Haley Bobbitt, Tacoma OAH
Anastasia Sandstrom, AAG

**DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON**

In re:

RYAN DOSS,

Appellant,

Determination of Compliance No.
DOC-264-23

OAH Docket No. 10-2023-LI-01964

No. 2025-017-WPA

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

Joel Sacks, Director of the Washington State Department of Labor & Industries (Department), having considered the appeal filed by Ryan Doss (Appellant), briefing submitted to the Director's Office, and having reviewed the record, issues this Director's Order.

The Director makes the following Findings of Fact, Conclusions of Law, and Final Decision and Order.

I. FINDINGS OF FACT

1. The Office of Administrative Hearings issued and served the Initial Order on Remand on February 27, 2025.
2. The Director received a timely filed petition for review from the Appellant.
3. The Director adopts and incorporates the Initial Order's "Issues" section, the "Initial Order Summary," and the "Evidentiary Hearing" summary. The Director also adopts the Initial Order's summary of proceedings in the section titled "Initial Order on Remand."

NO. 2025-017-WPA

1

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

OFFICE OF THE DIRECTOR
DEPARTMENT OF LABOR & INDUSTRIES
P.O. BOX 44001
OLYMPIA, WA 98504-4001

4. The Director adopts and incorporates the Initial Order's findings of facts 5.1 through 5.92.

II. CONCLUSIONS OF LAW

1. Based on the Appellant's timely filed petition for review, there is authority to review and decide this matter under RCW 49.48.084 and RCW 34.05.
2. The Director adopts and incorporates the Initial Order's conclusions of law 6.1 through 6.12.

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusions of Law, the Determination of Compliance is **AFFIRMED**. The Initial Order on Remand of February 27, 2025, is incorporated by reference herein.

DATED at Tumwater this 31st day of July, 2025.

Joel Sacks

JOEL SACKS
Director

SERVICE

This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

APPEAL RIGHTS

Reconsideration. Any party may file a petition for reconsideration. RCW 34.05.470. Any petition for reconsideration must be filed within 10 days of service of this Order and must state the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order **or** (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by emailing it to directorappeal@lni.wa.gov or by mailing or delivering it directly to Joel Sacks, Director of the Department of Labor and Industries, P. O. Box 44001 Olympia, Washington 98504-4001, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Director's Office. RCW 34.05.010(6).

NOTE: A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. A timely filed petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the Director does not (a) dispose of the petition **or** (b) serve the parties with a written notice specifying the date by which it will act on the petition. RCW 34.05.470(3).

Judicial Review. Any petition for judicial review must be filed with the appropriate court and served within 30 days after service of this Order. RCW 34.05.542. RCW 49.48.084(5) provides: "Orders that are not appealed within the time period specified in this section and Chapter 34.05 RCW are final and binding, and not subject to further appeal." Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement.

DECLARATION OF MAILING

I, Lisa Deck, hereby declare under penalty of perjury under the laws of the State of Washington, that the **DIRECTOR'S ORDER** was mailed on the 31st day of July, 2025, to the following via regular, postage prepaid:

Heather Klein Leibowitz, AAG
Department of Labor and Industries
800 Fifth Avenue Suite 2000
Seattle, WA 98104
Heather.Leibowitz@atg.wa.gov
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Ryan Doss
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I & J Graf Enterprises, LLC
dba Little Italy
140 N James Ave
Wenatchee, WA 98801

I & J Graf Enterprises, LLC
dba Little Italy
Attn: Jeffrey Graf
1913 SE 11th Ave
Cape Floral, FL 33990
jeffreygraf54@yahoo.com

DATED this 31st day of July, 2025, at Tumwater, Washington.

Lisa Deck

LISA DECK

Valerio, Halcy (ATG)

From: Goss, Amanda J. (ATG)
Sent: Tuesday, March 25, 2025 2:28 PM
To: ATG MI LNI SEA Director Attorney
Subject: RE: DearFW: Appeal
Attachments: 250226_InitialOrderonRemand_10_2023_LI_01964.pdf

I believe this is the order.

From: ATG MI LNI SEA Director Attorney <lniseadirectoratty@atg.wa.gov>
Sent: Tuesday, March 25, 2025 9:06 AM
To: Goss, Amanda J. (ATG) <amanda.goss@atg.wa.gov>
Subject: DearFW: Appeal

Dear Amanda Goss,

Please send the OAH order.

Thank you,

Anastasia Sandstrom
Counsel to the Director

From: keepsmiling808 <keepsmiling808@protonmail.com>
Sent: Tuesday, March 25, 2025 7:49 AM
To: ATG MI LNI SEA Director Attorney <lniseadirectoratty@atg.wa.gov>
Subject: Appeal

[EXTERNAL]

OAH Docket No. 10--2023-LI-01964 I & J Graf Enterprises dba Little Italy .
This Is Ryan Doss appealing Judge TJ Martin's Decision on my Labor Case and I want my case heard by competent individuals . I received the latest decision on Feb . 28 ,2025 which me and the other witnesses disagree with. This Response is within the 30 Day Appeal Limit. Thank You

Sent with [Proton Mail](#) secure email.

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Ryan Doss,

Appellant/Wage Claimant.

Docket No. 10-2023-LI-01964

INITIAL ORDER ON REMAND

Agency: Labor and Industries

Program: Wage Payments

Agency No. DOC - 264-23

- 1. INITIAL ORDER ON REMAND:** On October 9, 2024, the Department of Labor & Industries' Director, Joel Sacks, issued a 'Director's Order', remanding this administrative appeal back to the Office of Administrative Hearings, in relevant part:

On remand, the Administrative Law Judge should exercise his discretion to determine whether to exclude the proposed witnesses of the Appellant. In the event the Appellant's witnesses remain excluded, the Administrative Law Judge should issue a new initial order stating the specific reasons for exclusion. If the Administrative Law Judge find that exclusion of the Appellant's witnesses is inappropriate, new hearing dates should be scheduled for their testimony. In either case, the Administrative Law Judge should issue a new initial order that contains findings of fact and conclusions of law on all disputed issues in the case.

*'Director's Order No. 2024-012-WPA',
dated October 9, 2024.*

On December 5, 2024, OAH Administrative Law Judge (ALJ) TJ Martin held a status conference to discuss the Department's 'Director's Order'. At the status conference, Ryan Doss (Appellant/Wage Claimant) represented himself, with Antonette Blithe, observing. Heather Leibowitz, Assistant Attorney General, represented the Department of Labor & Industries (Department). Jeffrey Graf (Employer) observed. After hearing from the Appellant and the Department regarding the Appellant's excluded witnesses, the undersigned administrative law judge decided to allow the Appellant to call his witnesses, provided he timely disclosed those witnesses in advance of a fact-finding, evidentiary hearing, scheduled for January 29, 2025.

On January 29, 2025, at the evidentiary hearing, after timely disclosing his witnesses, the Appellant called: (1) Stacey Jones; (2) Jason Fonvilla; (3) Antonette Blithe; (4) Aishya Padron; and (5) Donna Doss. The Appellant also submitted Exhibits 1-26. However, these additional exhibits were not reviewed nor admitted, since they were outside the 'Case Schedule' and not addressed by the 'Directors' Order'. The parties were given until February 7, 2025, to submit supplemental closing briefs. This 'Initial Order on Remand' incorporates the additional testimonies of the Appellant's witnesses.

2. ISSUES:

- 2.1. Whether Ryan Doss can prove, by a 'preponderance of the evidence' I & J Graf Enterprises, LLC, dba Little Italy failed to pay him minimum wages, failed to pay overtimes and failed to pay final wages, for alleged work performed between September 8, 2020 and December 4, 2021, in violation of Revised Code of Washington (RCW) 49.46.010, RCW 49.46.130 and RCW 49.48.010?
- 2.2. Should the Department's 'Determination of Compliance No. 264-23', be affirmed, modified or set aside?

3. INITIAL ORDER SUMMARY:

- 3.1. Ryan Doss **did not prove**, by a 'preponderance of the evidence', I & J Graf Enterprises, LLC, dba Little Italy failed to pay him minimum wages, failed to pay overtimes and failed to pay final wages, for alleged work performed between September 8, 2020 and December 4, 2021, in violation of RCW 49.46.010, RCW 49.46.130 and RCW 49.48.010.
- 3.2. The Department's 'Determination of Compliance No. 264-23', is **affirmed**.

4. EVIDENTIARY HEARING:

- 4.1. Hearing Date: February 20 & 21, 2024
- 4.2. Supplemental Hearing: January 29, 2025
- 4.3. Appellant: Ryan Doss
 - 4.3.1. Representative: The Appellant represented himself.
 - 4.3.2. Witnesses: Stacey Jones, Appellant Acquaintance
Jason Fonvilla, Appellant Acquaintance
Antonette Blythe, Appellant Acquaintance
Aishya Padron, Appellant Acquaintance
Donna Doss, Appellant's Daughter
- 4.4. Agency: Department of Labor and Industries
 - 4.4.1. Representative: Heather Leibowitz, Assistant Attorney General
 - 4.4.2. Witnesses: Jeff Graf, I & J Enterprises, LLC, dba Little Italy Owner
Paul Moseley, Property Manager
David Eichler, Longtime Customer
Jerei Bargabus, Department Industrial Relations Agent
Timothy St. Germain, Former Little Italy Chef

- 4.5. Exhibits: The Appellant did not present any exhibits at the original evidentiary hearing.
Department's Exhibits 1 through 36 were admitted.
The Appellant filed Exhibits 1-26 on January 13, 2025.
However, these exhibits were not admitted since they were beyond the 'Case Schedule' and not addressed by the 'Director's Order', dated October 9, 2024.
- 4.6. Observers: Wendy Barcelona, Assistant Attorney General
- 4.7. Court Reporter: Evelyn Adrean, Court Reporter, Capitol Reporting

5. FINDINGS OF FACT:

The following 'Findings of Facts' are established by a 'preponderance of the evidence':

Jurisdiction-

5.1. On June 29, 2023, the Department of Labor Industries (Department) issued 'Determination of Compliance No. 264-23' (Determination). The Department's Determination found I&J Graf Enterprises, LLC, doing business as (dba) Little Italy (Employer/Little Italy) did not owe Ryan Doss (Appellant/Wage Claimant/Doss) \$69,928.00 in unpaid, minimum wage, agreed, final, overtime, wages, tips, deductions, and unpaid sick leave, for work performed, from September 8, 2020 to December 4, 2021. *Exhibit (Ex.) 1.*

5.2. On July 17, 2024, Appellant Doss appealed the Department's Determination. *Ex. 2.*

Ryan Doss and Little Italy-

5.3. A genuine dispute of material fact exists in the present case. Based on this dispute of fact, a credibility finding is warranted. Based on the testimony and the exhibits admitted into the record, the undersigned administrative law judge finds the Department's version of the events more convincing than the Appellant's, for the following reasons:

- a. Doss painted murals at Little Italy prior to the restaurant's opening, but never worked as an employee for Little Italy or for Jeffry Graf, as evidenced by a lack of records, such as timecards, work schedules, paystubs or W-2's, which the Appellant/Wage Claimant, Ryan Doss, failed to provide, which would have helped establish an employer-employee relationship;
- b. As a part of Department's investigation of Doss' Wage Complaint, Department Industrial Relations Agent Jerei Bargabus interviewed numerous witnesses, who confirmed Doss had only painted murals at Little Italy, but never worked as an employee;

- c. At the evidentiary hearing, Doss asserted 'It was just me and Jeff [Graf] in the beginning' of the restaurant opening. However, numerous witnesses dispelled the Appellant's version of events and the amount of help he alleged to have assisted with in opening up the restaurant;
 - d. Doss also asserted he got the restaurant ready to open and clean every day, often for eight hours per day. However, numerous witnesses contradicted Doss' assertion since they didn't know him nor ever see him working there;
 - e. Doss also claimed to have worked 'non-stop' getting menus out, making smoothies as a part of his work at Little Italy. However, numerous witnesses confirmed otherwise. Most of the witnesses, who recalled Doss, only remember him painting murals at the restaurant;
 - f. Doss also claimed to help Graf install the wood pizza oven, but then later said Graf wasn't even there for the oven delivery. However, numerous witnesses disclaimed Doss' version of events. Photo evidence also shows the oven was not made of wood, but metal;
 - g. Doss also claimed every day he did the kitchen food prep, made dough and organized food items to be ordered. However, several witnesses, including the Little Italy's chef, Timothy St. Germain, contradicted Doss' claim;
 - h. At the supplemental evidentiary hearing, Doss' witnesses, Stacey Jones, Jason Fonvilla, Antonette Blythe, Aishya Padron and Donna Doss, all testified they knew Doss painted murals at Little Italy. However, they never directly observed him engaging in tasks like doing food prep, cleaning, or making dough.
 - i. Many of the Appellant's witnesses' testimonies, such as Donna Doss' testimony, relied solely upon what the Appellant had told them about what he did at the restaurant, rather than any direct observation of him doing such employee tasks;
 - j. At the original evidentiary hearing, several witnesses all confirmed Doss had only painted murals at the restaurant, but never worked there as a chef, server, or did any cleaning or worked the register;
 - k. Based on this credibility finding, the following facts are established by a 'preponderance of the evidence' (more likely than not):
- 5.4. The Employer, I & J Graf Enterprises, LLC, owned and operated Little Italy, located in Wenatchee, Washington. Jeff Graf (Graf) served as I & J Graf Enterprises' Registered Agent and as one of its Governors. *Testimony of Jerei Bargabus (Testimony of Bargabus) and Ex. 34.*

- 5.5. In 2019, Graf met Doss, who went by 'Fam', while Graf owned and operated G's Tees, a shirt shop, in Wenatchee, Washington. Doss would come into the shop a couple of times a week. Graf paid Doss, an artist, a commission on some shirts he painted. G's Tees would later close, during the Covid-19 pandemic, due to not being an 'essential business'. *Testimony of Jeff Graf (Testimony of Graf)*.
- 5.6. While Graf owned and operated G's Tees, he became friends with Doss. *Testimony of Graf and Testimony of Doss*.
- 5.7. Graf gave Doss a bulk discount on shirts so Doss could paint on them and sell them. *Testimony of Doss*.
- 5.8. When Graf moved out of his G's Tees store, it took him two days to clear out the store, with several people helping, but Doss was not one of them. *Testimony of Graf*.
- 5.9. Doss is disabled and uses a cane to walk. He also uses wraps and a lumbar wrap to assist him with his mobility. *Testimony of Ryan Doss (Testimony of Doss)*.
- 5.10. Paul Moseley (Moseley) is the property manager of the Cascadia Apartments and commercial space in Wenatchee, Washington. The building consists of 84 apartments with five commercial spaces located on the street level of the building. *Testimony of Paul Moseley (Testimony of Moseley)*.
- 5.11. In October 10, 2020, Graf signed a lease with Moseley to rent a commercial space in the building to open the Little Italy pizza restaurant. *Testimony of Moseley*.
- 5.12. Prior to signing the lease, Graf did not have access to the commercial space, contrary to Doss' assertion he went into the space before the lease was signed. *Testimony of Graf*.
- 5.13. Moseley assisted Graf in moving into the commercial space, including helping with the heavy equipment, and setting up the space for the restaurant. Moseley did not recall Doss ever being there, except later to paint murals in the restaurant. *Testimony of Moseley*.
- 5.14. Moseley, as property manager, went to the property every day. He did recall telling Doss to stop smoking marijuana in the entry way when Doss took breaks from painting murals. *Testimony of Moseley*.
- 5.15. Moseley did not recall ever seeing Doss cleaning or working. *Testimony of Moseley*.
- 5.16. Soon after, Graf opened the restaurant for 'take out' only, since Covid-19 restrictions were still in place. *Testimony of Graf*.
- 5.17. With Covid-19 pandemic restrictions lifting and the restaurant preparing to open for 'dine in' customers, Graf asked Doss how much he would charge to paint a mural in Little Italy behind the bar. Graf agreed to pay Doss \$400 in cash and \$400 in marijuana for the mural. *Testimony of Graf*.

- 5.18. Graf bought and supplied Doss' painting supplies. *Testimony of Doss.*
- 5.19. Graf never hired Doss as an employee or agreed to pay him \$21.00 per hour. *Testimony of Graf.*
- 5.20. At the end of October 2020, Doss started painting the murals in the restaurant. However, he never helped to get the restaurant ready since he is disabled and uses a cane to assist with walking. *Testimony of Graf.*
- 5.21. When the 1,000 pound metal pizza oven was moved into the restaurant, Graf, along with five people, moved it in. Doss did not help. *Testimony of Graf.*
- 5.22. If Graf wasn't at the restaurant, he occasionally asked Doss, who was painting two murals, to direct where deliveries were to be placed. *Testimony of Graf and Testimony of Doss.*
- 5.23. Graf offered Doss a key to the restaurant so he could get inside and 'warm up' from the cold weather and to paint, whenever he wanted. *Testimony of Graf.*
- 5.24. In painting the murals, Doss could come and go as he pleased with no set hours. *Testimony of Graf.*
- 5.25. Since Doss did not have a car, Graf, as his friend, drove him around, including to various marijuana stores. *Testimony of Graf.*
- 5.26. While Doss talked about wanting to set up a smoothie station in Little Italy, it never happened. *Testimony of Graf.*
- 5.27. Doss occasionally made smoothies for people, who called him on his personal cellphone. They would also buy the supplies for him to make the smoothies. Doss would then deliver the smoothies to them. *Testimony of Doss.*
- 5.28. Doss also talked about teaching art classes in the corner of the restaurant, but it never happened. *Testimony of Graf.*
- 5.29. Doss never set up a smoothie station inside Little Italy. *Testimony of Graf.*
- 5.30. Graf saw Doss as a 'friend', so he tried to help him out. However, Doss was never an employee nor paid salary or hourly. *Testimony of Graf.*
- 5.31. When Doss wasn't painting murals, he was doing his own thing, since he was not working at the restaurant. *Testimony of Graf.*
- 5.32. Doss never cleared tables, swept floors after closing or did any cleaning. He also never worked as a cook, server, or at the register or delivered pizzas since he didn't have a car. *Testimony of Graf.*
- 5.33. Little Italy employees were required to log their hours into the business computer. Doss never did since he was not an employee nor was he on the business' payroll. *Testimony of Graf.*

- 5.34. On March 20, 2021, Graf opened Little Italy for customers. *Testimony of Graf.*
- 5.35. David Eichler (Eichler), a retired, disable veteran, visited Little Italy on the first day it opened and met Graf. Since Eichler lived upstairs in the Cascadia Apartments, he went to Little Italy daily, since it was like 'going to a friend's house'. *Testimony of David Eichler (Testimony of Eichler).*
- 5.36. Eichler visited Little Italy daily, often staying there for hours, often until closing. He knew all of the Little Italy staff, but did not recall Doss. *Testimony of Eichler.*
- 5.37. Doss never sold smoothies from Little Italy, especially since Graf, and his wife, had concerns about Doss selling smoothies which contained THC, which required a special license to do so. *Testimony of Graf.*
- 5.38. Graf bought Doss a blender, cups, straws and a cooler, to help his friend, Doss, to set up his business. *Testimony of Graf.*
- 5.39. Graf's wife helped Doss to get his food handler's license so he could start up his smoothie business. *Testimony of Graf.*
- 5.40. Once the restaurant opened, Moseley never saw Doss selling smoothies or conducting art classes. *Testimony of Moseley.*
- 5.41. Eichler did not recall Little Italy ever having a juice bar or art classes being hosted by Doss. *Testimony of Eichler.*
- 5.42. In April 2021, Timothy St Germain (St. Germain) began working as Little Italy's chef. He usually worked Monday through Fridays, from 9:00 a.m. or 10:00 a.m. to 5:00 or 6:00 p.m. There were six employees, but Doss was never one of the employees. *Testimony of Timothy St. Germain (Testimony of St. Germain).*
- 5.43. St. Germain would have seen Doss if he worked at Little Italy as an employee. *Testimony of St. Germain.*
- 5.44. St. Germain did not recall Doss ever making smoothies or conducting art classes at Little Italy. *Testimony of St. Germain.*
- 5.45. St. Germain did recall Doss coming into Little Italy one time to ask Graf for money. *Testimony of St. Germain.*
- 5.46. On October 24, 2021, Graf's wife died and Graf spent six weeks in a coma and six months in the hospital. By Thansksgiving, Graf's children had come and started to close down the business since Graf could no longer run it. *Testimony of Graf.*
- 5.47. In December 2021, Little Italy closed due to Graf getting Covid. *Testimony of Moseley.*
- 5.48. Doss received a 'Grants for Artist's Progress (GAP) in 2021. *Testimony of Bargabus and Ex. 35.*

Appellant's Witness Testimonies at the Supplemental Evidentiary Hearing-

- 5.49. Stacee Jones (Jones) lived in the Bruce Hotel, where Doss also lived. Doss painted murals at Little Italy and made fruit drinks. Twice, Doss brought fruit drinks to her, but she didn't know where they were prepared. Jones never went to the restaurant. *Testimony of Stacee Jones (Testimony of Jones).*
- 5.50. Jason Fonvilla (Fonvilla) ran a business down the street from Little Italy and often got food and pizza from there. He saw Doss painting murals in Little Italy and assumed Doss worked there. *Testimony of Jason Fonvilla (Testimony of Fonvilla).*
- 5.51. Doss primarily made artwork designs on t-shirts and other artwork, including painting the murals at Little Italy. Fonvilla assumed the drinks Doss made had occurred at Little Italy. *Testimony of Fonvilla.*
- 5.52. Antonette Blythe (Blythe), a friend of Doss, worked a block up the street from Little Italy and sometimes drove him to Little Italy. *Testimony of Antonette Blithe (Testimony of Blithe).*
- 5.53. Blythe had planned to hire Doss to also paint murals. She later hired him to do a painting. *Testimony of Blithe.*
- 5.54. Aishya Padron (Padron), lives with Doss and has a child together. Prior to getting together, they were neighbors. *Testimony of Aishya Padron (Testimony of Padron).*
- 5.55. Prior to getting together, Padron often saw Doss inside Little Italy, painting murals. On multiple occasions, Padron purchased health drinks from Doss, who she believed had a drink station inside Little Italy. *Testimony of Padron.*
- 5.56. Around the opening of Little Italy, Padron knew Doss handed out menus around the neighborhood, but didn't know who directed him to do so. *Testimony of Padron.*
- 5.57. Padron believed Doss was an employee of Little Italy. *Testimony of Padron.*
- 5.58. Donna Doss (D. Doss), the Appellant's daughter, lives in Georgia and has never visited Washington State. *Testimony of Donna Doss (Testimony of D. Doss).*
- 5.59. D. Doss never saw the work done by the Appellant. Rather, she relied on what the Appellant told her about his work at Little Italy. She 'believed' the Appellant was an employee of Little Italy based on what he told her. *Testimony of D. Doss.*
- 5.60. D. Doss knew the Appellant painted murals with provided materials for an agreed, contracted price. *Testimony of D. Doss.*
- 5.61. D. Doss was aware the Appellant was painting a mural for Graf, but unclear of the arrangement or the money. *Testimony of D. Doss.*

Department Investigation-

- 5.62. On February 16, 2023, Doss filed a wage complaint with the Department. In his wage complaint, Doss alleged he worked for I & J Graf Enterprises, LLC, dba Little Italy, as a full-time Art Installer/Murals & Sales Associate Manager, at a rate of pay of \$21.00 per hour, from September 10, 2020 to November 13, 2021, for a total of 3,650 hours. Doss believed he was owed \$76,650 in wages, minus \$800 previously paid. *Testimony of Bargabus and Ex. 4.*
- 5.63. On the same day, February 16, 2023, the Department acknowledge receipt of the Appellant's wage complaint and notified him the Department would be investigating his complaint. *Testimony of Bargabus and Ex. 5.*
- 5.64. From February 21, 2023, to May 12, 2023, Department Industrial Relations Agent Jerei Bargabus (Department Agent Bargabus) investigated the Appellant's Wage Complaint. *Ex. 3.*
- 5.65. On March 7, 2023, Department Agent Bargabus sent an email to Doss, requesting a reconstruction of hours worked, copies of paystubs, employment contract, and to fill out a Department questionnaire. *Testimony of Bargabus and Ex. 6.*
- 5.66. On March 9, 2023, Doss acknowledged receiving the Department request and responded he would gather the information, as requested by the Department. Department Agent Bargabus also notified Doss she would be contacting the Employer to discuss his wage complaint. *Testimony of Bargabus and Exs. 7 & 8.*
- 5.67. On March 15, 2023, Doss returned provided a reconstruction of his hours worked, along with the Department questionnaire and a news article. *Testimony of Bargabus, Testimony of Doss and Ex. 9.*
- 5.68. In his 'Hours Worked and Wage Computation Sheet', Doss listed he worked eight hours per day, Monday through Saturday, at a rate of \$21.00 per hour, from September 12, 2020 to December 4, 2021. He alleged he was owed \$70,152 minus \$872 paid, for a total amount of \$69,280 owed to him. *Testimony of Bargabus, Testimony of Doss and Ex. 9.*
- 5.69. Department Agent Bargabus converted Doss' handwritten 'Hours Worked and Wage Computation Sheet', into a type-written format. *Testimony of Bargabus and Ex. 32.*
- 5.70. On March 29, 2023, Department Agent Bargabus notified I&J Graf Enterprises, LLC dba Little Italy, informing the employer a Worker Rights Complaint had been filed against the company. Bargabus requested all of the employer's records regarding Ryan Doss. *Testimony of Bargabus and Ex. 10.*
- 5.71. On the same day, March 29, 2023, Department Agent Bargabus notified Doss she had contacted his former employer, Little Italy and Graf, regarding his wage complaint. *Testimony of Bargabus and Exs. 11 & 12.*

- 5.72. On the same day, Graf emailed Department Agent Bargabus, denying Doss had ever worked at Little Italy. Therefore, he and Little Italy had no records regarding Doss. *Testimony of Bargabus and Ex. 13.*
- 5.73. On March 30, 2023, Graf followed up his previous emails by stating he had been friends with Doss, but no employer-employee relationship existed. *Ex. 14.*
- 5.74. Department Agent Bargabus and Graf continued to communicate as part of the Department's investigation of Doss' wage complaint. Graf also provided the names and contact information for various witnesses who could confirm Doss was never employed at Little Italy. *Testimony of Bargabus and Exs. 15, 16, 18, 19, 21, 23 & 24.*
- 5.75. On April 7, 2023, Department Agent Bargabus notified Doss and Graf additional time would be needed to complete the Department's investigation. *Testimony of Bargabus and Ex. 17.*
- 5.76. On April 15, 2023, Graf provided Department Agent Bargabus with various photographs of the Little Italy staff, which did not include Doss. *Testimony of Bargabus and Ex. 20.*
- 5.77. On April 17, 2023, Graf 'Employer's Answer to Claim for Wages', asserting Doss had never worked for Little Italy, so no employment records existed. *Ex. 22.*
- 5.78. On April 21, 2023, Department Agent Bargabus contacted Tabitha Stilwater, a witness mentioned by Graf, who might have information regarding whether Doss was employed by Graf at Little Italy. *Ex. 25.*
- 5.79. On April 28, 2023, Department Agent Bargabus contacted Doss, notifying him of the Graf's response, on behalf of Little Italy. Bargabus requested Doss provide any additional document, including any time records, paystubs, and/or W-2's, he had which would support his wage complaint. *Ex. 26.*
- 5.80. On May 4, 2023, Doss provided a handwritten list of witnesses, along with written statements by several individuals, who saw him painting murals in the restaurant. Doss also included his Washington State Food Worker Card. *Testimony of Bargabus and Ex. 27.*
- 5.81. Between May 10, 2023 and May 18, 2023, Doss asserted to Department Agent Bargabus that Graf had given him a key to the restaurant and had paid for his food handlers license. He also provided cellphone screenshots of pictures of the various murals he painted within the restaurant. *Testimony of Doss and Exs. 28-30.*
- 5.82. A food handlers license does not mean a person worked as an employee. *Testimony of Bargabus.*

- 5.83. Department Agent Bargabus interviewed Condyl Mulholland (Mulholland), who resides in the Cascadia Apartments. Mulholland remembered Doss painting the murals, but nothing else. *Testimony of Bargabus.*
- 5.84. Department Agent Bargabus also interviewed Tabitha Stilwater (Stilwater), a Little Italy employee, who had never met Doss, except one time. *Testimony of Bargabus.*
- 5.85. Department Agent Bargabus also interviewed Julie Sickels (Sickels), who had also filed a Wage Complaint against Little Italy. Sickels confirmed Doss had been asked to paint murals at the restaurant. After the restaurant opened, Doss no longer came around and never worked as an employee. *Testimony of Bargabus.*
- 5.86. Department Agent Bargabus also interviewed witnesses provided by Graf and Doss, including Jason Fawnville, Stacy Jones and Reggie Williams. Each recalled Doss painting murals at Little Italy, but never working as an employee there. *Testimony of Bargabus and Ex. 3.*
- 5.87. Based on her investigation, including contacting numerous witnesses, Department Industrial Relations Agent Bargabus determined Doss had not presented any evidence establishing he actually worked at Little Italy, beyond painting commissioned murals. *Testimony of Bargabus and Ex. 3.*
- 5.88. Based on the evidence, Department Industrial Relations Agent Bargabus determined Doss had only been friends with Graf, who gave him rides and provided painting materials to paint several murals at Little Italy. No employer/employee relationship existed. *Testimony of Bargabus.*
- 5.89. Employee records, such as timecards, paystubs, and W-2's would have supported Doss worked as an employee. However, no such records were provided by either Doss or by Little Italy or Graf. *Testimony of Bargabus.*
- 5.90. Department Industrial Relations Agent Bargabus determined while Doss may have painted murals, as an independent commissioned contractor, no records needed to be kept, unlike if Doss had worked as an employee. *Testimony of Bargabus.*
- 5.91. On May 12, 2023, Department Agent Bargabus issued a 'Determination of Compliance Agent Summary', finding no wages were owed to Doss since he had not been a Little Italy employee. *Testimony of Bargabus and Ex. 33.*
- 5.92. On June 29, 2023, the Department, based on Agent Bargabus' investigation, issued 'Determination of Compliance No. 264-23'. The Department's Determination found I & J Graf Enterprises, LLC, dba Little Italy did not owe Ryan Doss \$69,928.00 in unpaid, minimum wage, agreed, final, overtime, wages, tips, deductions, and unpaid sick leave, for work, from September 8, 2020 to December 4, 2021. *Testimony of Bargabus and Ex. 1.*

6. CONCLUSIONS OF LAW:

Based upon the above 'Findings of Fact', the following 'Conclusions of Law' are made:

Jurisdiction-

6.1. The Office of Administrative Hearings has jurisdiction over the persons and subject matter of the present case based on Revised Code of Washington (RCW) 49.48.084(3) and Chapters 34.05 RCW.

Burden and Standard of Proof Challenging a 'Determination of Compliance'-

6.2. In contesting a 'Determination of Compliance', the appealing party has the burden, to establish by a 'preponderance of the evidence', a 'more likely than not' standard of proof, the Department's 'Determination of Compliance' is in error. *MacSuga v. County of Spokane*, 97 Wn. App. 435, 445-446, 983 P.2d 1167 (1999).

6.3. In the present case, the Appellant/Wage Claimant, Ryan Doss, has the burden to prove, by a 'preponderance of the evidence', the Department's 'Determination of Compliance No. No. 264-23' is in error.

Department Requirement to Investigate Doss' Wage Complaint-

6.4. If an employee files a wage complaint, the Department is required to investigate. RCW 49.48.083(1) and WAC 296-128-820.

6.5. In the present case, on February 16, 2023, Ryan Doss filed a 'Worker Rights Complaint' with the Department, alleging his former employer, I & J Graf Enterprises, dba Little Italy, failed to pay \$21.00 per hour, from September 10, 2020 to November 13, 2021, for total wages of \$76,650 minus \$800 paid. As a result, the Department investigated Doss' wage complaint.

Doss did not work as a Little Italy Employee so No Wages are Owed-

6.6. The Department of Labor & Industries is responsible for implementing and enforcing the provisions of Chapters 49.46, 49.48 and 49.52 of the RCW and Title 296 Washington Administrative Code (WAC), pertaining to wages, for the purpose of protecting the immediate and future health, safety, and welfare of the people of the State of Washington.

6.7. The Department's authority includes enforcing wage payments such as:
(a) Payment of minimum wages (RCW 49.46.020 and Chapter 296-128 WAC);
(b) Payment of overtime wages in excess of more than 40 hours of work in a week (RCW 49.46.130); (c) Payment of final wages (RCW 49.48.010); and (d) Withholding of lawful deductions from wages (RCW 49.52.060); and (e) Enforcement of any wages as authorized by statute, ordinance, and/or contract (RCW 49.52.050).

6.8. Under the State of Washington's Minimum Wage Requirements and Labor Standards Act (MWA), an 'employee' is defined as 'any individual employed by an employer'. RCW 49.46.010(3).

6.9. Washington has adopted the economic dependence test for determining whether a worker is an 'employee' for purposes of the Washington State Minimum Wage Act, RCW 49.46. See *Anfinson v. FedEx Ground Package System, Inc.*, 159 Wn. App. 35, 244 P.3d 32 (2010), affirmed on appeal, by the Supreme Court of Washington. This test considers the following factors:

- a. The degree of control exerted by the alleged employer over the worker;
- b. The worker's opportunity for profit or loss depending upon the worker's managerial skill;
- c. The worker's investment in equipment or materials required for the task, or employment of helpers;
- d. Whether the service the worker renders requires a special skill;
- e. The degree of permanence of the working relationship; and
- f. Whether the services rendered is an integral part of the alleged employer's business.

6.10. In the present case, the evidence established the Appellant, Ryan Doss, was not an employee of Little Italy or Jeffrey Graf, for the following reasons:

- a. Graf commissioned Doss to paint murals inside Little Italy;
- b. Graf gave Doss a key to the restaurant so Doss could come and go as he pleased, while he painted murals inside the restaurant;
- c. Doss was not required, nor did he clock in or out from his work painting murals at the restaurant;
- d. Graf did not control Doss' mural painting work and left it up to Doss to complete the murals, without direction;
- e. Doss' mural painting was not related or in any way connected to Little Italy's profits or losses as a restaurant;
- f. Graf provided all of the materials for Doss to paint his murals;
- g. While Doss has experience as an artist, his painting services were separate and distinct from the operations of the Little Italy business;
- h. Doss only painted murals inside the restaurant. He was not hired as an employee nor worked alongside other Little Italy paid employees; and
- i. The witnesses testifying on behalf of Doss could not confirm he worked as an employee of Little Italy, only that he had painted murals there. Any perception or belief of him being an employee of the restaurant arose from what Doss had told them, not from any direct observation.

6.11. The Appellant, Ryan Doss, **did not prove**, by a 'preponderance of the evidence', I & J Graf Enterprises, LLC, dba Little Italy, failed to pay him minimum wages, failed to pay overtimes and failed to pay final wages, for alleged work performed between September 8, 2020 and December 4, 2021, in violation of RCW 49.46.010, RCW 49.46.130 and RCW 49.48.010.

6.12. The Department's 'Determination of Compliance No. 264-23', is **affirmed**.

7. INITIAL ORDER:

THIS ADMINISTRATIVE TRIUBUNAL ORDERS;

7.1. Ryan Doss **did not prove**, by a 'preponderance of the evidence', I&J Graf Enterprises, LLC, dba Little Italy, failed to pay him minimum wages, failed to pay overtimes and failed to pay final wages, for alleged work performed between September 8, 2020 and December 4, 2021, in violation of RCW 49.46.010, RCW 49.46.130 and RCW 49.48.010.

7.2. The Department's 'Determination of Compliance No. 264-23', is **affirmed**.

Issued from Olympia, Washington on the date of mailing.



TJ Martin
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF SERVICE ATTACHED

[Continued]

PETITION FOR REVIEW

Any party that disputes this Initial Order may file a Petition for Review with the Director of the Department of Labor and Industries.¹ You may e-mail your Petition for Review to the Director at directorappeal@lni.wa.gov. You may also mail or deliver your Petition for Review to the Director at the Department's physical address listed below.

Mailing Address:

Director
Department of Labor and Industries
PO Box 44001
Olympia, WA 98504-4001

Physical Address:

7273 Linderson Way SW
Tumwater, WA 98501

If you e-mail your Petition for Review, please do not mail, or deliver a paper copy to the Director.

Whether you e-mail, mail, or deliver the Petition for Review, the Director *must actually* receive the Petition for Review during office hours at the Director's office **within 30 days** of the date this Initial Order was mailed to the parties. You must also provide a copy of your Petition for Review to the other parties at the same time.

If the Director does not receive a Petition for Review **within 30 days** from the date of the Initial Order, the Initial Order shall become final with no further right to appeal.²

If you timely file a Petition for Review, the Director will conduct an administrative review under chapter 34.05 RCW.

¹ RCW 49.48.084 and RCW 34.05.464.

² RCW 49.48.084 and Chapter 34.05 RCW.

CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 10-2023-LI-01964

I certify that true copies of this document were served on those listed below, from Olympia, Washington via Consolidated Mail Services by one of the following: First Class Mail, Certified Mail, Hand Delivery via Messenger, Campus Mail, Facsimile, or by Email.

Ryan Doss 1250 N Wenatchee Ave Ste H-225 Wenatchee, WA 98801 <i>Appellant Wage Claimant</i>	☒ First Class Mail ☒ Certified Mail, Return Receipt ☐ Campus Mail ☐ E-mail
Heather Klein Leibowitz, AAG Department of Labor and Industries 800 Fifth Avenue Suite 2000 Seattle, WA 98104 <i>Agency Representative</i>	☐ First Class Mail ☐ Certified Mail, Return Receipt ☐ Campus Mail ☒ E-mail Heather.Leibowitz@atg.wa.gov Eileen.West@atg.wa.gov Iniseaeservice@atg.wa.gov
I & J Graf Enterprises, LLC dba Little Italy 140 N James Ave Wenatchee, WA 98801 <i>Intervenor Employer</i>	☒ First Class Mail ☐ Certified Mail, Return Receipt ☐ Campus Mail ☐ E-mail
I & J Graf Enterprises, LLC dba Little Italy Attn: Jeffrey Graf 1913 SE 11th Ave Cape Floral, FL 33990 <i>Intervenor Employer</i>	☒ First Class Mail ☐ Certified Mail, Return Receipt ☐ Campus Mail ☐ E-mail

Date: Thursday, February 27, 2025

OFFICE OF ADMINISTRATIVE HEARINGS



Tamara Roberson
Legal Assistant 2